

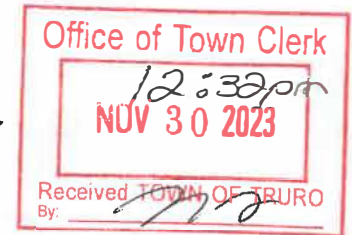


Truro Planning Board Agenda

Remote Zoom Meeting

Wednesday, December 6, 2023 – 5:00 pm

www.truro-ma.gov



Join the meeting from your computer, tablet or smartphone:

<https://us02web.zoom.us/j/87940731084>

Dial in: +1-646-931-3860 or +1-305-224-1968

Meeting ID: 879 4073 1084 **Passcode: 015100**

Open Meeting

This will be a remote public meeting. Citizens can view the meeting on Channel 8 in Truro and on the web on the "Truro TV Channel 8" button under "Helpful Links" on the homepage of the Town of Truro website (www.truro-ma.gov). Click on the green "Watch" button in the upper right corner of the page. Please note that there may be a slight delay (approx. 15-30 seconds) between the meeting and the television broadcast/live stream.

Citizens can join the meeting to listen and provide public comment by entering the meeting link; clicking on the agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free. Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/live stream, please lower or mute the volume on your computer or television during public comment so that you may be heard clearly. Citizens may also provide written comment via postal mail or by emailing Liz Sturdy, Planning Department Administrator, at esturdy@truro-ma.gov.

Public Comment Period

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

1. Planner Report

2. Chair Report

3. Minutes

- ◆ October 18, 2023
- ◆ November 1, 2023

Board Action/Review

- ◆ **2023-003/SPR Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee** for property located at 12 Ocean Bluff Lane (Atlas Map 37, Parcel 6). Applicant seeks administrative amendment to the Planning Board Decision of July 5, 2023 to conform said approval to plans and specifications later approved by the Truro Board of Appeals 2023-004/ZBA. **{New material included in this packet}**

Public Hearings – Continued

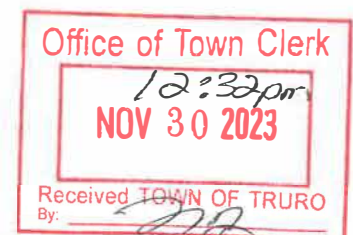
2023-002/SPR Robert J. Martin for property located at 100 Rt 6 (Atlas Map 55, Parcel 12). Applicant seeks Commercial Site Plan approval (selling firewood and other materials); on property located in the Seashore District. **[Material in 4/12/2023 and 4/26/2023 packets]**

Board Discussion

- ♦ Planning Board priorities for possible 2024 ATM zoning bylaw changes

Next Meeting: Wednesday, December 20, 2023 at 5:00 pm

Adjourn



STAFF MEMORANDUM

To: Truro Planning Board

From: Barbara Carboni, Town Planner and Land Use Counsel

Date: December 4, 2023

Re: Meeting December 6, 2023

2023-003/SPR Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee, for property located at 12 Ocean Bluff Lane. Applicant seeks administrative amendment to the Planning Board decision of July 5, 2023, to conform to plans and specifications later approved by the ZBA in its grant of a special permit (2023-004/ZBA).

Procedural History:

As the Board may remember, by decision dated July 5, 2023, the Board granted Residential Site Plan Approval for certain construction at this property, including construction unauthorized by prior permit, and for further expansion of the dwelling located in the Seashore District.

The project also required a special permit from the ZBA under G.L. c. 40A, s. 6 and Zoning Bylaw s. 30.7 for expansion of the dwelling on a nonconforming lot. The ZBA hearing on the special permit opened and ran concurrently with this Board's hearings, but as required, the ZBA's hearing remained open until after this Board's decision for the ZBA to conclude its proceedings.

At the time this Board deliberated and voted on Site Plan approval, no as-built plans had been submitted, so the true dimensions of the existing structures were not known. Instead, the applicant had submitted dimensions of the structures based on (applicant's) examination of earlier plans. After this Board's decision, the ZBA required and the applicant submitted as-built plans. (This enabled the ZBA to compare the proposed dimensions to the existing dimensions for a "not substantially more detrimental" finding). The dimensions indicated in the as-built plans vary somewhat from the dimensions provided to this Board, but ultimately the ZBA's decision approves only 11 square feet more than this Board approved in its Site Plan Approval.

As a result of the above, 1) the dimensions in the Planning Board and ZBA decisions are inconsistent; and 2) the two decisions reference different plans. I advised applicant's counsel that the circumstances required administrative amendment of the Planning Board decision such that dimensions are consistent between the two decisions, and only one set of plans is operative. At my request, the applicant has submitted the supplemental filings provided to the ZBA, which include a dimensional table indicating the corrected existing and proposed dimensions.

Amended Decision draft

As the Board will see, the Amended Decision includes a list of the supplemental materials (see p. 3), and substitutes the dimensions indicated in the dimensional table for those in the original decision (see paragraphs 4, 5 and 6). The dimensions originally provided to this Board underestimated the square footage actually constructed in the basement of the dwelling, and overestimated the square footage constructed on the first floor of the dwelling. See paragraphs 4 and 5. As amended, the existing square footage of the dwelling is 2,624 square feet, and the studio is 667 square feet, for a total of 3,291 square feet. As amended the proposed square footage of the dwelling is 2,912 square feet, for a total of 3,579 square feet - 11 square feet more than the 3,568 square feet approved by this Board in its Decision.

Board Action

The only changes to the Board's original decision are those described above: changes to align the dimensions in this Board's decision with those in the ZBA's decision, which had the benefit of as-built plans to provide accurate figures. No other aspect of the Board's original decision needs to be revisited, or should be revisited. The Board's action on this application for administrative amendment would be "to approve [or adopt] the Amended Decision for consistency with dimensions contained in the decision of the Zoning Board of Appeals, and consistency in plan references."

2023-002/SPR Robert J. Martin for property located at 100 Rt 6. Applicant seeks Commercial Site Plan approval (selling firewood and other materials) on property located in the Seashore District.

Procedural History

As the Board may remember, public hearing on this application for Commercial Site Plan approval opened on April 12, 2023. At that time, the submitted application was incomplete, lacking a site plan among other required materials and information. Following the Building Commissioner's issuance of a cease and desist order on May 5, 2023, and the applicant's appeal thereof to the ZBA, the Board and applicant agreed to continuances of the site plan review hearing pending the outcome of the ZBA proceedings, which would determine the legality of the use being made of the property. The most recent continuance was to the Board's meeting of December 6, 2023.

ZBA Decision on Appeal of Cease and Desist Order

On November 6, 2023, the ZBA voted to uphold the Building Commissioner's cease and desist order, finding the use of the property to be the sale of landscape materials; finding such use to violate the Zoning Bylaw; and finding such use not protected as a pre-existing nonconforming use. The decision directed that materials, equipment and structures be removed

from the property by January 15, 2023. The ZBA's decision is attached.¹ In relevant part, the ZBA's decision states:

"[T]he Board finds that there has been a change in use from the original nonconforming use of the property as a gas station, and its current nonconforming use for sale of landscape materials. The gas station use has been "altered or converted to another commercial use," in violation of Zoning Bylaw section 30.3(B)(12).

The Board further finds that the ongoing storage of firewood, landscaping materials and equipment on the property violates Zoning Bylaw s. 30.3(C)(7), which prohibits the "continuous storage of materials or equipment" in the Seashore District.

Conclusion

The Board concludes that the current use of the property for storage and sale of landscape materials is a commercial use prohibited in the Seashore District, and not protected as a preexisting nonconforming use. The Board accordingly upholds the Cease and Desist Order issued by the Building Commissioner on May 3, 2023. All materials, structures and equipment must be removed from the site by January 15, 2024, with fines for noncompliance to accrue daily thereafter as provided Zoning Bylaw s. 60.1.B."

ZBA Decision dated November 6, 2023, pp. 5-6.

Commercial Site Plan Review: Review Criteria and Findings

Zoning Bylaw Section 70.3(F), "Review Criteria/Design Guidelines," provides that the Planning Board will review applications based on criteria including the following:

"1. The proposal is in conformity with all applicable provisions of the Zoning Bylaw."

Section 70.3 (G), "Findings of the Planning Board," provides:

"The concurring vote of four members of the Planning Board shall approve a Commercial Site Plan in the form submitted or with reasonable conditions, *unless it finds that* (a) the application for site plan approval is incomplete; or (b) the imposition of reasonable conditions will not ensure that the project will conform to the standards and criteria described herein; or (c) *the project does not comply with the requirements of the Zoning Bylaw.*" (emphasis supplied).

As the excerpts above of the ZBA's decision indicate, the ZBA found that use of the property for sale of landscape materials violates Section 30.3(B)(12) as an unlawful alteration or conversion of the original nonconforming gas station use. The Board further found the use to violate s.30.3(C)(7), which prohibits the "continuous storage of materials or equipment" in the Seashore District.

¹ The applicant has filed a notice of constructive grant of the appeal of the cease and desist order. This will not be the subject of any discussion at this Board's meeting on December 6, 2023. The Building Commissioner has issued a second cease and desist order with respect to use of the property. This is attached.

Where the ZBA has found that the use for which Commercial Site Plan approval is sought "does not comply with the requirements of the Zoning Bylaw" - and in fact violates the Zoning Bylaw - this Board cannot, pursuant to s. 70.3(G) above, grant Commercial Site Plan Approval. It is strongly recommended that the Board vote to deny the application for Commercial Site Plan Approval.²

² Due to agreed-upon continuances during the pendency of ZBA proceedings, the applicant has understandably not supplemented his initial filing for Commercial Site Plan Review with a site plan or other required materials. Denial of Site Plan Approval without affording the applicant an opportunity to supplement his application may seem irregular. However, where Site Plan approval must be denied as a matter of law, even if the applicant desired to submit additional materials, such submissions would be futile, as no submission could alter the illegality of the use as found by the ZBA.



TOWN OF TRURO

Building Department

24 Town Hall Road

P.O. Box 2030, Truro MA 02666

Tel: 508-349-7004, Ext. 131 Fax: 508-349-5508

November 29, 2023

Mr. Robert J. Martin III
P.O. Box 891
North Truro, MA 02652

Andrew M. Aiken, Manager
100 Route 6 LLC
54 Four Mile Road
West Hartford, CT 06197

Mr. Martin and Mr. Aiken,

I am issuing a Cease and Desist Order, subject to the conditions below, with respect to the business and related activity currently operating at 100 Route 6, Truro, MA, commonly referred to as "Jack's Garage."

The current use of the property is the sale of landscape materials to the public and to contractors. This operation is a commercial use, which is prohibited in the Seashore District. See Zoning Bylaw s. 30.2, Use Table.

This use is not protected as a lawful pre-existing nonconforming use under the Zoning Bylaw. Section 30.3.B.12 provides that "[l]awfully pre-existing nonconforming commercial uses and structures may continue, but in no case shall the use be altered or converted to another commercial use." The lawful pre-existing nonconforming commercial use of the property was a gas station. The current use is an alteration of this original nonconforming use and/or a conversion to another commercial use (sale of landscape materials). The current use violates Zoning Bylaw Section 30.3.B.12.

The current use of the property includes ongoing storage of firewood, Landscaping materials and equipment on the property. This violates Zoning

Bylaw s. 30.3(C)(7), which prohibits the “continuous storage of materials or equipment” in the Seashore District.

In addition, clearing and other site work was conducted; structures were placed; and materials and equipment were delivered to the property, all without Site Plan Approval by the Planning Board, in violation of Zoning Bylaw s. 70.1.D.

Mr. Martin (tenant) and Mr. Aiken (owner) are jointly and severally responsible for compliance with the following Orders:

1. All landscape and other materials shall be removed from the site by January 15, 2024, through sale or other disposition. No additional materials shall be brought onto the site or stored on the site.
2. All concrete blocks and other storage structures shall be removed from the site by January 15, 2024. No additional storage or other structures shall be brought onto the site.
3. All machinery and equipment shall be removed from the site by January 15, 2024. Equipment may be operated on the property to facilitate sale or other removal of materials prior to that date.
4. The disturbed area within the required 50-foot setback from the front lot line shall be restored by January 15, 2024.

Failure to comply with the above Orders as of January 15, 2024, shall result in the imposition of fines commencing January 16, 2024, in the amount of \$300.00 per day, with each day that the violation continues constituting a separate offense pursuant to Zoning Bylaw s. 60.1.A.

You have the right to appeal this decision to the Zoning Board of Appeals. If this office can assist you in that endeavor, please do not hesitate to contact us.

Regards,


Richard Stevens
Building Commissioner

cc: William C. Henchy, Esq.



Zoning Board of Appeals

Town of Truro

24 Town Hall Road

Truro, MA 02666

(508) 349-7004

DECISION OF THE ZONING BOARD OF APPEALS

Appeal of Cease and Desist Order

Case Reference No.: 2023-006/ZBA

Atlas Map 55, Parcel 12

Address: 100 Route 6

Title Reference: Barnstable County Registry of Deeds Book 34899 Page 326

Owner: 100 Route 6 LLC

Applicant: Robert J. Martin II

Hearing Dates: October 23, 2023 and November 6, 2023

Decision Date: November 6, 2023

Motion to uphold the Cease and Desist Order issued by the Building Commissioner on May 5, 2023.

Vote:

5-0

Sitting: Chris Lucy, Chair; Darrell Shedd, Vice Chair; Art Hultin; Nancy Medoff; Dave Crocker

Board Vote at the November 6, 2023 Hearing:

Motion by Darrell Shedd, Second by Art Hultin. Vote was 5-0 in favor.

In Favor of the Motion: Chris Lucy, Chair; Darrell Shedd, Vice Chair; Art Hultin; Nancy Medoff; Dave Crocker

Following duly posted and noticed Truro Zoning Board of Appeals hearing held on October 23, 2023 and November 6, 2023, the Board voted to uphold the Cease and Desist Order issued by the Building Commissioner on May 5, 2023.

The Board's Decision is based on the following findings of fact:

1. The property located 100 Route 6 is within in the Seashore Zoning District and contains 1.7 acres. The property was site of Jack's Esso Station (later Jack's Gas), which commenced operation in the late 1940s. The property was purchased by Richard Aiken in 1978, who continued to operate Jack's Gas.
2. Jack's Gas was in operation prior to the creation of the Cape Cod National Seashore in 1961, and prior to creation of the Town's corresponding Seashore Zoning District in 1963.

3. Commercial uses (other than commercial fishing activity and food trucks, by special permit) are prohibited in the Seashore District. See Zoning Bylaw s. 30.2, Use Table.
4. In addition, the "continuous storage of materials or equipment" is prohibited in the Seashore District. See Zoning Bylaw s. 30.3(C)(7).
5. The property's use as a gas station became nonconforming in 1963, at the time the Seashore Zoning District was adopted.
6. Evidence indicates that the sale of firewood had commenced in the 1980s in approximately 1981.
7. The sale of gas on the property ceased in March 1998, following the discovery of a gas leak from an underground tank. All underground gasoline tanks were removed at that time. Remediation commenced and gas station operations ceased as of March 1998.
8. As determined by the Department of Environmental Protection (DEP), there are currently no imminent health risks associated with the contamination, and mechanical remediation has ceased. Monitoring wells are sampled annually and continue to show concentrations of hydrocarbons exceeding drinking water standards. The site is currently mapped by DEP as a "closed site," but final closure will not occur until hydrocarbons levels decrease to conforming levels.
9. At the time gas sales ceased in 1998, firewood was also sold on the site, as were other items including frozen candy bars.
10. Mr. Aiken continued to sell firewood on the site following cessation of gas sales. Proceeds from the sale of firewood were paid into an escrow account for site remediation purposes.
11. Mr. Aiken began leasing out the property in 2005; both the sale of firewood (by tenants) and payment of proceeds into the escrow account continued.
12. The station building itself succumbed to fire on November 14, 2003.
13. On November 4, 2004, Mr. Aiken was granted a special permit by the ZBA "to rebuild a pre-existing, nonconforming structure on its original location. . . . [and] a Condition to said Grant is the Special Permit shall extend for thirty (30) years from the date of approval." According to ZBA meeting minutes of September 27, 2004, Mr. Aiken's stated intent was not to re-establish a gas station; he stated that "he did not intend to expand beyond the sale of firewood." A building permit issued on February 1, 2006, but the building was never constructed.
14. The property is currently owned by 100 Route 6 LLC, an entity related to the Aiken family.
15. The property is currently leased to Robert Martin. In early 2023, Mr. Martin cleared portions of the site; installed additional storage structures for the firewood and signs for

the business; and placed additional materials on the site in separate storage areas contained by concrete block walls. Mr. Martin stores and sells firewood, loam, gravel, shells, and other landscaping-related materials on the site. Equipment is also stored on the property.

16. Such activities require prior Commercial Site Plan Approval by the Planning Board, which had not been obtained. See Zoning Bylaw s. 70.4.

17. On March 15, 2023, at the direction of the Building Commissioner, Mr. Martin filed an application with the Planning Board for Commercial Site Plan Review. Hearing opened on April 12, 2023. Following issuance of the Cease and Desist Order on May 3, 2023, hearing has been continued without further testimony pending resolution of these proceedings.

18. On May 3, 2023, the Building Commissioner issued a cease and desist order to Mr. Martin, stating:

"This operation is in violation of the Town of Truro Zoning Bylaws paragraph 30.3 Seashore District item 12 which states, 'Lawfully pre-existing non-conforming commercial uses and structures may continue, but in no case shall the use be altered or converted to another commercial use.' The current use is an alteration and intensification of the prior use and therefore NOT ALLOWED."

This CEASE and DESIST order is effective immediately. . . ."

19. Mr. Martin timely appealed the cease and desist order. The Board reviews this order pursuant to G.L. c. 40A, s. 8 and s. 15, and Zoning Bylaw Section 60.2.

Discussion and Further Findings

Section 30.3(B)(12) of the Seashore District Bylaw provides that:

"Lawfully pre-existing non-conforming commercial uses and structures may continue, but in no case shall the use be altered or converted to another commercial use."

A zoning bylaw or ordinance may permissibly provide for such strict regulation of nonconforming uses. See Blasco v. Board of Appeals of Winchendon, 31 Mass.App.Ct. 32, 39 (1991)(recognizing "the continuing right of a municipality through its zoning by-law to regulate *or forbid changes* in nonconforming uses")(emphasis added); Almeida v. Arruda, 89 Mass.App.Ct. 241 at n.5 (same). In this case, the Building Commissioner found that Mr. Martin's use of the property "is an alteration and intensification of the prior use and therefore not allowed." See Order dated May 3, 2023.

In determining whether to uphold the Building Commissioner's Order, the Board must first establish the "lawfully pre-existing nonconforming commercial use" of the property, against which the current use is measured to determine whether there has been an "alteration" of that that pre-existing use, or "conversion to another commercial use." See Zoning Bylaw s. 30.3(B)(12).

Commercial use of the property became nonconforming in 1963, when the Town adopted the Seashore Zoning District. At that time, the property's use was as a gas station. The Board therefore finds that the "lawfully pre-existing nonconforming commercial use" of the property was as a gas station. There is no evidence that firewood or any other materials were sold on the property at the

time the Seashore Zoning was adopted. The "lawfully pre-existing commercial use" of the property therefore does not include the sale of firewood or other materials.¹

Further, use of the property as a gas station ceased in 1998 following the tank leak and removal. Under Section 30.7 of the Zoning Bylaw, preexisting nonconforming uses lose their lawful status if abandoned for a period of two years or more:

“Abandonment. Nonconforming uses which have been abandoned for a period of 2 years or more shall not be re-established, and any future use shall conform to the then-current bylaw.”

Zoning Bylaw s. 30.7(C).² As of March 2000 or at latest May 2000 - two years following the cessation of gas sales and the removal of tanks - the nonconforming gas station use had been abandoned or discontinued for a period of two years. As a result, at that time, gas station use of the property lost its status as a lawful preexisting nonconforming use. Such use could not (and cannot) be reestablished. See Zoning Bylaw s. 30.7(C).³

Having determined that the "lawfully pre-existing nonconforming commercial use" of the property was as a gas station, the Board must next consider whether the current use of the property for sale of firewood and landscaping materials is an unlawful "alteration" of that nonconforming use, as found by the Building Commissioner in the Cease and Desist Order. See Zoning Bylaw s. 30.3(B)(12)(prohibiting the "alteration" of a nonconforming commercial use or its "conver[sion] to another commercial use"). To determine whether there has been such a change in use, the Board here applies the three-part "Chuckran" or "Powers" test, applied in cases where the protections of

¹Nevertheless, there is evidence in the record that the Town has tolerated the sale of firewood on the property following closure of the gas station. This evidence includes the 2004 ZBA special permit and related meeting minutes, which reference firewood sales. However, the Town is not constrained from enforcing a provision of its zoning bylaw by any prior failure to do so. See Building Commissioner of Franklin v. Dispatch Communications of New England, Inc., 48 Mass.App.Ct. 709, 715 (2000)(“The building commissioner's original conclusion that the tower did fall under the definition of public utility does not preclude the board's later enforcement of a contrary position.”)

² This provision is consistent with G.L. c. 40A, s. 6, which provides that "[a] zoning ordinance or by-law may define and regulate nonconforming uses and structures abandoned or not used for a period of two years or more.”

³ The sale of firewood, arguably a use accessory to the principal gas station use, continued on the property following cessation of the gas station use. However, an accessory use cannot exist on a property except in relation to a principal use. “An incidental or accessory use under a zoning law is a use which *is dependent on or pertains to the principal or main use.*” Town of Needham v. Winslow Nurseries, Inc., 330 Mass. 95, 101(1953)(emphasis added). After the principal gas station use was extinguished in 2000 (two years after operation of the gas station ceased), there was no principal use on the property on which firewood sales were “dependent.” At that time, such sales no longer had any claim to being a *lawful* accessory use. Such sales became simply an unlawful nonconforming use of the property.

G.L. c. 40A, s. 6 are claimed for a nonconforming use that has changed over time, or is proposed to change:⁴

(1) Does the current nonconforming use reflect the nature and purpose of the original lawful pre-existing nonconforming use?

The Board finds that the current nonconforming use is the sale of landscape materials to the public and to contractors. This use does not reflect the nature and purpose of the original lawful pre-existing nonconforming use, which was a gas station. The gas station no longer exists.

(2) Is there a difference in the quality, character, or degree of use between the current nonconforming use and the original nonconforming use?

The Board finds that there is a difference in the quality, character and degree of use between the original gas station use and the current landscape materials business. The gas station occupied a limited portion of the site at the front of the property. The business operated out of a small building. To accommodate the landscaping materials now sold, additional areas of the property were cleared. Concrete structures containing substantial stores of various landscaping materials have been installed, occupying a wide area across the frontage of the property. Additional materials are stored in piles behind, extending further into property.

(3) Is the current nonconforming use different in kind in its effect on the neighborhood than the original nonconforming use?

The Board finds that the current nonconforming use of the property as a landscaping materials business has an effect on the neighborhood that is different in kind than the effect of the gas station use. The current landscape materials business entails heavier trucks delivering materials onto and off the site. Other equipment stored on site is used to move materials into different areas of the property, and to load these materials for sale and delivery to customers and landscape contractors. In addition, the structures, materials, and equipment occupy a broader area of the property, and a portion of the property was cleared to provide additional area for substantial piles of materials. These factors combine to create a different atmosphere on the property, with different effect on the neighborhood.

Having applied the Chuckran/Powers test, the Board finds that there has been a change in use from the original nonconforming use of the property as a gas station, and its current nonconforming use for sale of landscape materials. The gas station use has been “altered or converted to another commercial use,” in violation of Zoning Bylaw section 30.3(B)(12).

The Board further finds that the ongoing storage of firewood, landscaping materials and equipment on the property violates Zoning Bylaw s. 30.3(C)(7), which prohibits the “continuous storage of materials or equipment” in the Seashore District.⁵

⁴ See Bridgewater v. Chuckran, 351 Mass. 20 (1966), and Powers v. Building Inspector of Barnstable, 363 Mass. 648 (1972).

⁵Under Section 30.7(C) of the Zoning Bylaw, once a nonconforming use is lost, any subsequent use of property must conform to the then-current Bylaw. The nonconforming gas station use of the property was extinguished in 2000. Where the nonconforming gas station use of the property was

Conclusion

The Board concludes that the current use of the property for storage and sale of landscape materials is a commercial use prohibited in the Seashore District, and not protected as a preexisting nonconforming use. The Board accordingly upholds the Cease and Desist Order issued by the Building Commissioner on May 3, 2023. All materials, structures and equipment must be removed from the site by January 15, 2024, with fines for noncompliance to accrue daily thereafter as provided Zoning Bylaw s. 60.1.B.


Darrell Shedd, Vice Chair

11/22/2023
Date

Received, Office of the Town Clerk:


Signature

11/22/23
Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

☐ No Appeal has been filed.

☐ An Appeal has been filed and received in this office on: _____

Signature

Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, §17)

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.

extinguished in 2000, the property must comply with current Bylaw requirements, including the prohibition on storage of materials and equipment contained in s. 30.3(C)(7).



TOWN OF TRURO

PLANNING BOARD

Meeting Minutes

October 18, 2023 – 5:00 pm

REMOTE PLANNING BOARD MEETING

Members Present (Quorum): Rich Roberts (Chair); Anne Greenbaum (Vice Chair); Jack Riemer (Clerk); Paul Kiernan; Caitlin Townsend; Virginia Frazier

Members Absent: Ellery Althaus

Other Participants: Town Planner/Land Use Counsel Barbara Carboni; Chris Lucy (Truro Voter)

Remote meeting convened at 5:02 pm, Wednesday, October 18, 2023, by Chair Roberts who announced that this was a remote public meeting aired live on Truro TV Channel 18 and was being recorded. Vice Chair Greenbaum provided information as to how the public may call into the meeting or provide written comment. Members introduced themselves to the public.

Chair Roberts announced that Member Althaus would not attend the meeting and he was not aware of why Member Riemer was absent.

Public Comment Period

Public comment, for items not on the agenda, was opened by Chair Roberts and there were none.

Planner Report

Town Planner/Land Use Counsel Carboni announced that the almost final Local Comprehensive Plan is on the Local Comprehensive Plan Committee's website and encouraged all to review it.

Chair Report

Chair Roberts noted that the fall Town Meeting was this Saturday and that the Members would review several related items for the fall Town Meeting later in this meeting.

Minutes

Chair Roberts led the review of the corrected minutes from August 23, 2023.

Member Frazier made a motion to approve the corrected minutes of August 23, 2023, as written.

Vice Chair Greenbaum seconded the motion.

Roll Call Vote:

Vice Chair Greenbaum – Aye

Member Townsend – Aye

Member Frazier - Aye
Member Kiernan – Aye
Chair Roberts - Aye
So voted, 5-0-0, motion carries.

Board Action/Review

Chair Roberts announced that the Planning Board, under the advice of Town Planner/Land Use Counsel Carboni, would move the agenda item of **2023-002/PB Form B (Preliminary Subdivision Plan) for 9B Benson Road** as requested by the Applicant to November 15, 2023.

Board Discussion

Chair Roberts led the discussion on the new DPW facility and noted that the limited discussion this evening would be to review, prior to the upcoming Town Meeting, which articles on the Warrant pertain to the DPW along with the explanation for the Members and the public.

Member Riemer joined the meeting.

Chair Roberts, Town Planner/Land Use Counsel Carboni, and the Members reviewed Articles 2, 3, 4 and the citizen-petitioned Article 14. There was a very brief discussion about the Cape Cod Commission's guidelines for the review of projects.

Chair Roberts led the review of the draft Stormwater Bylaw with the Members. Members briefly discussed the Chapter 9 Stretch Energy Code and noted the beneficial work done by the Town staff in their effort to develop a draft Stormwater Bylaw.

Chair Roberts turned over the discussion of the Road Spreadsheet update to Member Kiernan who provided background information and the work that he had completed. This document will be helpful for first responders, the building inspector, the Planning Board, and the Zoning Board of Appeals. Member Kiernan invited Members and other interested individuals to check his work so an accurate Road Spreadsheet can be available for residents. Chair Roberts thanked Member Kiernan for his work.

Chair Roberts led the review of the working list of the Planning Board's priorities for possible 2024 ATM Zoning Bylaw changes. Members discussed the following highlighted topics: the ADU and Duplex Bylaw, the Residential Tax Exemption (RTE), House Size Bylaw, Affordable Housing on Undersize or Nonconforming Lots, Coastal Erosion/Climate Change/Retreat, Enforcement of Zoning Bylaws, Development Agreement, Street Definition, Short-term Rentals, Choke Point on Route 6, Clean Fill Bylaw, Lot Coverage, Lot Clearing Bylaw, Scenic Roads Designation, Low-Lying Roads, Align Zoning Bylaws with Cape Cod National Seashore Regulations, Condominium Conversion Review ("Condominium Change in Use" as suggested by Town Planner/Land Use Counsel Carboni), Building Height Zoning Restrictions vs. Raised Construction in the Floor Plain, Upgrades to the Flood Plain Bylaw, Stormwater Bylaw, Permanent & Temporary Signs Handled by the Same Entity, Communications Towers, House Downhill Grading, and Commercial Zoning.

Chair Roberts recognized Mr. Lucy who commented on several of the above discussion topics and raised the Zoning Board of Appeals' issues of the definition of "*average ground height*" and "*gabled roof*".

After the discussion, Chair Roberts asked the Members to review the working list and prioritize their priorities to him as soon as possible.

Chair Reed announced that the Members would discuss the Planning Board administrative issues of group or individual site visits and online vs. in-person vs. hybrid meetings would be discussed at an upcoming meeting.

Town Planner/Land Use Counsel Carboni opined that the discussion on Planning Board meetings should be added as an agenda item for an upcoming meeting. There were no objections.

Town Planner/Land Use Counsel Carboni provided an update from Assistant Town Manager Clark regarding the Chapter 9 Stretch Energy Code.

Vice Chair Greenbaum made a motion to adjourn at 7:08 pm.

Member Riemer seconded the motion.

Roll Call Vote:

Vice Chair Greenbaum – Aye

Member Townsend – Aye

Member Frazier - Aye

Member Riemer – Aye

Member Kiernan – Aye

Chair Roberts - Aye

So voted, 6-0-0, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff



TOWN OF TRURO

PLANNING BOARD

Meeting Minutes

November 1, 2023 – 5:00 pm

REMOTE PLANNING BOARD MEETING

Members Present (Quorum): Rich Roberts (Chair); Anne Greenbaum (Vice Chair); Jack Riemer (Clerk); Ellery Althaus; Paul Kiernan; Caitlin Townsend; Virginia Frazier

Members Absent:

Other Participants: Town Planner/Land Use Counsel Barbara Carboni; Select Board Liaison John Dundas; Eric Bingham (Applicant); William Rogers (Engineer/Surveyor for Eric Bingham-Applicant)

Remote meeting convened at 5:00 pm, Wednesday, November 1, 2023, by Chair Roberts who announced that this was a remote public meeting aired live on Truro TV Channel 8 and was being recorded. Chair Roberts provided information as to how the public may call into the meeting or provide written comment. Members introduced themselves to the public.

Public Comment Period

Public comment, for items not on the agenda, was opened by Chair Roberts and there were none.

Planner Report

Town Planner/Land Use Counsel Carboni announced that the ZBA is currently hearing the matter of 100 Route 6 (Robert Martin-Applicant) and the appeal of the cease-and-desist order from Building Commissioner Rich Stevens. The ZBA's hearing was continued to November 6, 2023.

Chair Report

Chair Roberts reported that the Town Meeting was rescheduled for November 16, 2023, at 5:30 pm, at the Truro Central School. Chair Roberts reviewed the agenda for the next meeting on November 15, 2023. Chair Roberts noted that there were several Members who still had to reply to his request for input on Planning Board work sessions in the coming months as well as their priorities for the working list of the Planning Board's priorities for possible 2024 ATM Zoning Bylaw changes. Chair Roberts requested this information be provided to him as soon as possible.

Minutes

Chair Roberts led the review of the minutes from September 27, 2023.

**Member Kiernan made a motion to approve the minutes of September 27, 2023, as written.
Member Frazier seconded the motion.**

Roll Call Vote:

Vice Chair Greenbaum – Aye

Member Townsend - Aye

Member Althaus - Aye

Member Frazier - Aye

Member Riemer – Aye

Member Kiernan – Aye

Chair Roberts - Aye

So voted, 7-0-0, motion carries.

Public Hearings - Continued

2023-002/SPR Robert J. Martin for property located at 100 Rt 6 (Atlas Map 55, Parcel 12). Applicant seeks Commercial Site Plan approval (selling firewood and other materials); on property located in the Seashore District.

Chair Roberts confirmed with Town Planner/Land Use Counsel Carboni that the Applicant had requested a continuance in this matter to December 6, 2023. Town Planner/Land Use Counsel Carboni opined that the ZBA still had to determine the legality of the use or uses of the property prior to the Planning Board making its own determination in this matter. Town Planner/Land Use Counsel Carboni also noted that the Applicant may also consider a withdrawal of the application without prejudice or request a continuance of the matter.

Vice Chair Greenbaum made a motion to continue the matter of 2023-002/SPR to December 6, 2023. Member Frazier seconded the motion.

Roll Call Vote:

Vice Chair Greenbaum – Aye

Member Townsend – Aye

Member Althaus - Aye

Member Frazier - Aye

Member Riemer – Aye

Member Kiernan – Aye

Chair Roberts - Aye

So voted, 7-0-0, motion carries.

Board Action/Review

2023-003/ANR-The Pamet Realty Trust, Joe Robbat, Jr., Trustee and Pamet Asset Trust, Eric Bingham, Trustee seek approval of Form A-Application for Determination that Plan Does Not Require Approval (ANR) pursuant to Section 2.2 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 50, 52 Depot Road (Atlas Map 50, Parcels 36 and 34) and 11 Old County Road (Atlas Map 50, Parcel 237), Truro MA, Registry of Deeds title reference: Book 25496 Page 8; and Book 29361 Page 77.

Chair Roberts recognized Mr. Rogers who presented the information on this matter. Members discussed with Mr. Rogers, Mr. Bingham, and Town Planner/Land Use Counsel Carboni the following highlighted topics: the removal of redundancy in the application, the lack of depiction of the

structures on the plan was not a detriment to the endorsement of the plan, the designation of the wetlands on the plan, and the Applicants' donation of Lot 1 to the Truro Conservation Trust.

Mr. Rogers announced that he was retiring, and he thanked the Members for their support over the years. Members thanked Mr. Rogers and wished him well.

Vice Chair Greenbaum made a motion to approve the ANR and the plan amendments as discussed this evening in the matter of 2023-003/ANR.

Member Frazier seconded the motion.

Roll Call Vote:

Vice Chair Greenbaum – Aye

Member Townsend – Aye

Member Althaus - Aye

Member Frazier - Aye

Member Riemer – Aye

Member Kiernan – Aye

Chair Roberts - Aye

So voted, 7-0-0, motion carries.

Board Discussion

Chair Roberts led the discussion on Site Visits with the Members and Town Planner/Land Use Counsel Carboni. Members expressed their preference for either individual or group Site Visits and the advantage or disadvantage of one option over the other. After the discussion, Chair Roberts said that the Planning Board will move towards a hybrid model for Site Visits. Chair Roberts further added that group Site Visits should abide by the Open Meeting Law and emphasized no deliberation among Members on those visits.

Chair Roberts recognized Town Planner/Land Use Counsel Carboni who provided information regarding the status of in-person meetings vs. hybrid meetings vs. virtual meetings among other Town boards, committees, and commissions as well as current Massachusetts guidelines on the topic.

Chair Roberts asked Members who had not provided their input on the working list of the Planning Board's priorities for possible 2024 ATM Zoning Bylaw changes to do so as soon as possible. Once received, Chair Roberts said that the priorities would be identified, a final list compiled, and the assignment of Members to manage those priorities.

Chair Roberts recognized Vice Chair Greenbaum who reminded Members that the Warrant will open in January 2024 and close in February 2024. Vice Chair Greenbaum encouraged the Members to be mindful of these dates as they compiled their input on the working list.

Chair Roberts solicited input from the Members regarding a work session to finalize the working list and Members favored discussing this topic at the next meeting on November 15, 2023.

Town Planner/Land Use Counsel Carboni briefly reviewed several of the agenda items for the meeting on November 15, 2023.

Member Kiernan made a motion to adjourn at 6:02 pm.

Member Althaus seconded the motion.

Roll Call Vote:

Vice Chair Greenbaum – Aye

Member Althaus - Aye

Member Townsend – Aye

Member Frazier - Aye

Member Riemer – Aye

Member Kiernan – Aye

Chair Roberts - Aye

So voted, 7-0-0, motion carries.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Alexander O. Powers". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Alexander O. Powers

Board/Committee/Commission Support Staff

Benjamin E. Zehnder LLC

62 Route 6A, Suite B
Orleans, Massachusetts 02653

Benjamin E. Zehnder, Esq.
bzehnder@zehnderllc.com
Tel: (508) 255-7766

November 16, 2023

Truro Town Clerk Elisabeth Verde
Truro Town Hall
24 Town Hall Road
Truro, MA 02666

Via hand delivery & email

Re: Planning Board Case No. 2023-003/SPR
Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee
Request for Administrative Amendment

Dear Ms. Verde:

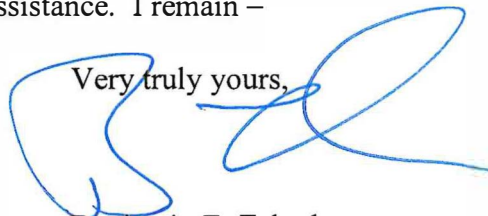
This correspondence constitutes a request to the Truro Planning Board for administrative amendment of the above-numbered Residential Site Plan Approval to conform said approval to plans and specifications later approved by the Truro Board of Appeals in matter 2023-004/ZBA.

This request is that the Residential Site Plan Approval be amended to substitute the following (10 copies filed):

- J.M. O'Reilly Final Site Plan dated 9-11-2023;
- Main House Area Study floor plans - 09.13.23 Revision;
- Exterior Elevations revised 09.13.23; and
- Seashore District Total Gross Floor Area Calculations dated 2023.09.14

Thank you as always for your assistance. I remain –

Very truly yours,



Benjamin E. Zehnder

Enc.

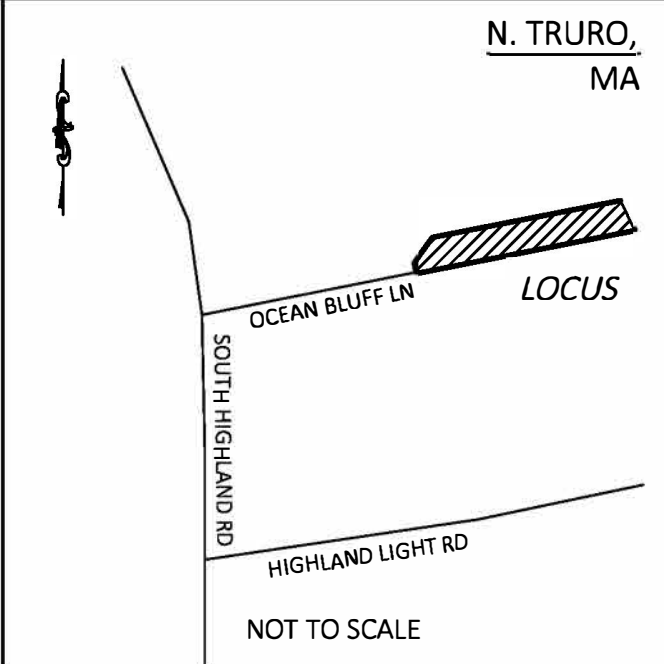
cc. via email only:

client

Barbara carboni, Esq.

Elizabeth Surdy

ZONING TABLE			
ZONE: NSD- SEASHORE			
MINIMUM AREA	60,000 SF		
MINIMUM FRONTAGE	50 FEET		
FRONT & REAR YARD SETBACK	25 FEET		
SIDE YARD SETBACK	15 FEET		
MAXIMUM BUILDING COVERAGE	15%		
MAXIMUM BUILDING HEIGHT	35 FEET		
LOT AREA	PRIOR APPROVALS	EXISTING	PROPOSED
SETBACK- SOUTH	117,113 SF	NO CHANGE	NO CHANGE
NUMBER OF BUILDINGS	17.04'	17.7±	11.4±
	2	2	2
LOT COVERAGE:			
BUILDINGS	1,841 SF	2,194 SF	2,549 SF
DECKS	1,013 SF	1,262 SF	1,425 SF
PARKING/DRIVES	2,824 SF	3,366 SF	3,366 SF
WALKWAYS	1,370 SF	1,210 SF	1,210 SF
TOTAL	7,048 SF (6.0%)	8,032 SF (6.8%)	8,550 SF (7.3%)
SEASHORE DISTRICT T.G.F.A.			
HOUSE (BASEMENT)	0	658 SF	1,116 SF
HOUSE (1ST)	1,182 SF	1,483 SF	1,782 SF
STUDIO / GARAGE (BASEMENT)	0	0	0
STUDIO / GARAGE (1ST)	860 SF	674 SF	674 SF
TOTAL	1,842 SF	2,815 SF	3,573 SF



PLAN BOOK NA
DEED BOOK 34281
ASSESSORS' MAP 37

PAGE NA
PAGE 342
PARCEL 6

- LEGEND**
- EXISTING CONTOUR
 - PROPOSED CONTOUR
 - EXISTING SPOT GRADE
 - PROPOSED SPOT GRADE
 - WATER SERVICE LINE
 - OVERHEAD UTILITY SERVICE
 - ELECTRIC / COMM. SERVICE LINE
 - GAS SERVICE LINE
 - TEST HOLE / BORING LOCATION
 - SEPTIC TANK
 - DISTRIBUTION BOX
 - SOIL ABSORPTION SYSTEM
 - RESERVED FOR FUTURE
 - UTILITY POLE
 - CATCH BASIN
 - FIRE HYDRANT
 - WELL
 - DRAINAGE MANHOLE
 - CONCRETE BOUND, FOUND
 - LIMIT OF WORK
 - FENCE
 - EDGE OF CLEARING

Plan Reference:

Plan Book 165, Page 87
Plan Book 105, Page 135
Deed Book 34281, Page 342
Deed Book 33750, Page 321

BENCHMARK
TOP OF CONCRETE BOUND
EL=84.2±(NAVD 1988 DATUM)

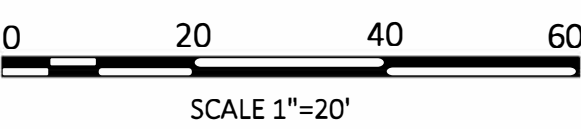
Isolated Wetlands

ASSESSORS MAP 40, PARCEL 999-000
U.S.A. DEPT. OF INTERIOR
O CAPE COD NATIONAL SEASHORE

PARCEL 6
AREA = 2.57 ACRES
(Per Assessors)

PLAN
SCALE 1"=20'

ASSESSORS MAP 37, PARCEL 022
U.S.A. DEPT. OF INTERIOR
10 HIGHLAND LIGHT ROAD



REVISED 9-11-2023: REMOVED THE PROPOSED PORCH AND STEP ON SOUTH SIDE OF DWELLING AND EDITED PLAN TITLE.

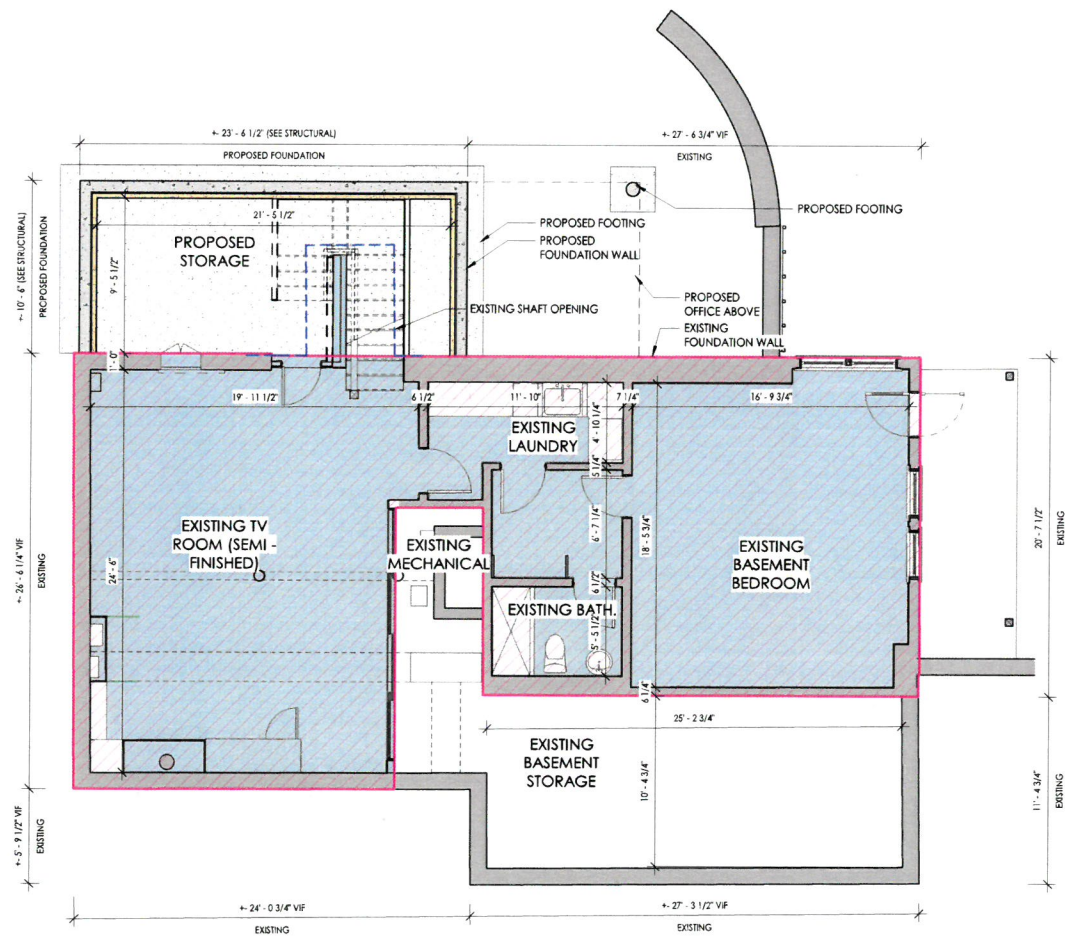
Truro Atlantic View Rlty Trust
C/O: BRUCE JACOBSON TRUSTE

FINAL SITE PLAN
12 OCEAN BLUFF LANE, N. TRURO, MA

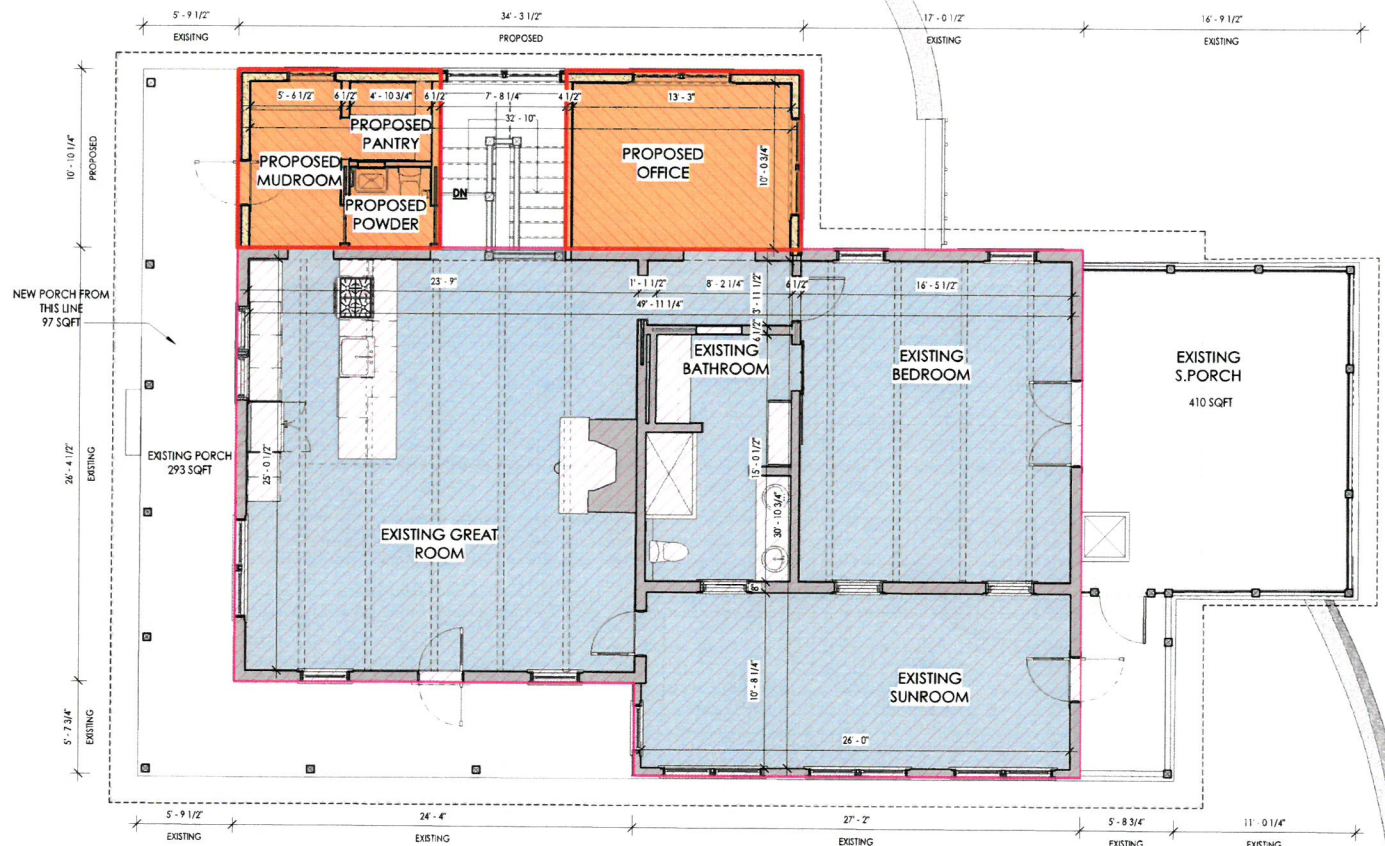
J.M. O'REILLY & ASSOCIATES, INC.
Professional Engineering & Land Surveying Services

1573 Main Street - Route 6A
P.O. Box 1773
Brewster, MA 02631 (508)898-8802 Fax

DATE:	SCALE:	BY:	CHECK:	JOB NUMBER:
9-11-2023	As Noted	JMO/gb	JMO	JMO-9457

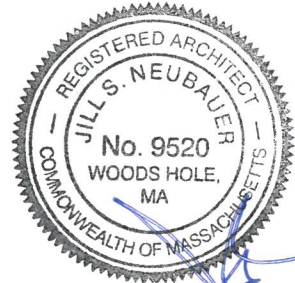
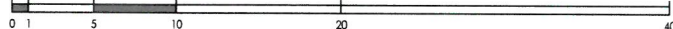


2 MAIN HOUSE AREA STUDY BASEMENT PLAN
3/16" = 1'-0"



1 MAIN HOUSE AREA STUDY FIRST FLOOR
3/16" = 1'-0"

3/16" = 1'-0"



ALL FIGURES SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	
SUBJECT	SIZE
MAIN HOUSE SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	
BASEMENT	1112 SQFT
FIRST FLOOR	1512 SQFT
MAIN HOUSE SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	
BASEMENT	N/A SQFT
FIRST FLOOR	288 SQFT
GUEST HOUSE SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	
FIRST FLOOR	667 SQFT
GUEST HOUSE SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	
FIRST FLOOR	
SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	3291 SQFT
SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	288 SQFT
SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	3579 SQFT

JILL
NEUBAUER
ARCHITECTS

1994

15 DEPOT AVENUE
FALMOUTH, MA 02540
508 548-0909
jna@jarchitects.com
jarchitects.com

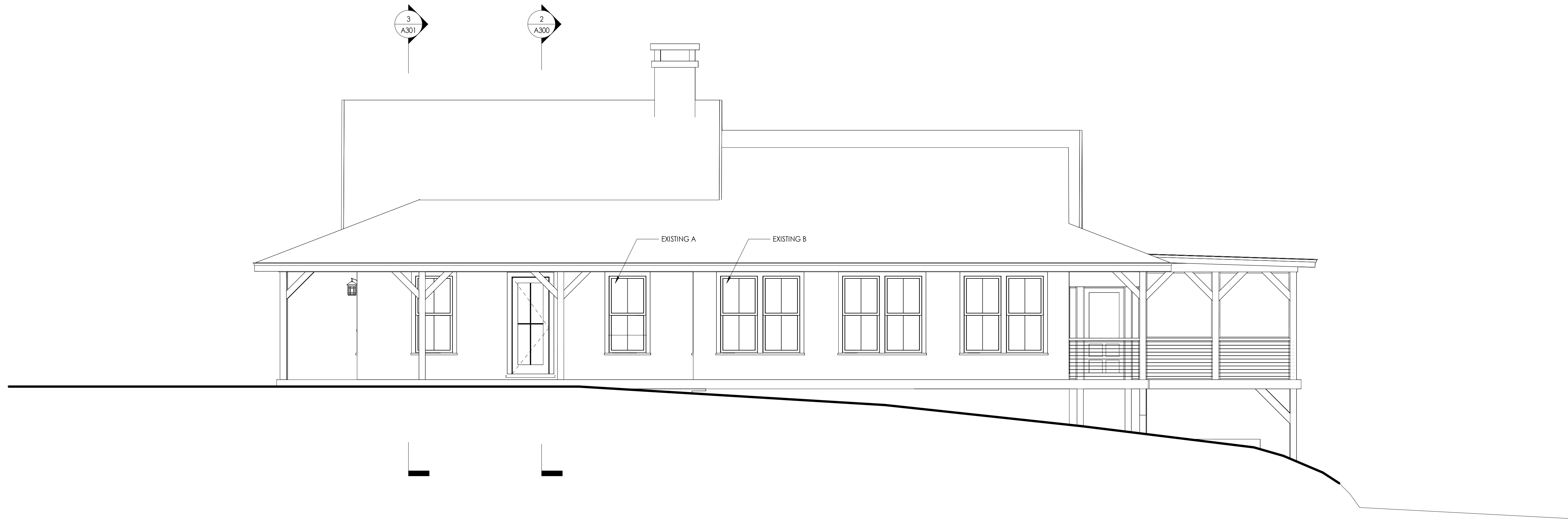
ROWE JACOBSON
12 Ocean Bluff, North Truro MA

ISSUE DATES:	
PERMIT SET:	09/07/22
IFC:	09/07/22
REVISIONS:	
1	09.07.22 Issue for Permitting
2	10.13.22 Issue for Permitting
3	11.29.22 Revision
4	12.21.22 Revision
5	09.13.23 Revision

DRAWN BY: SA
CHECKED BY: JN

MAIN HOUSE
AREA STUDY

A030



② NORTHEAST ELEVATION
1/4" = 1'-0"



① NORTHWEST ELEVATION
1/4" = 1'-0"

ISSUE DATES:

PERMIT SET: 09/07/22
IFC 09/07/22

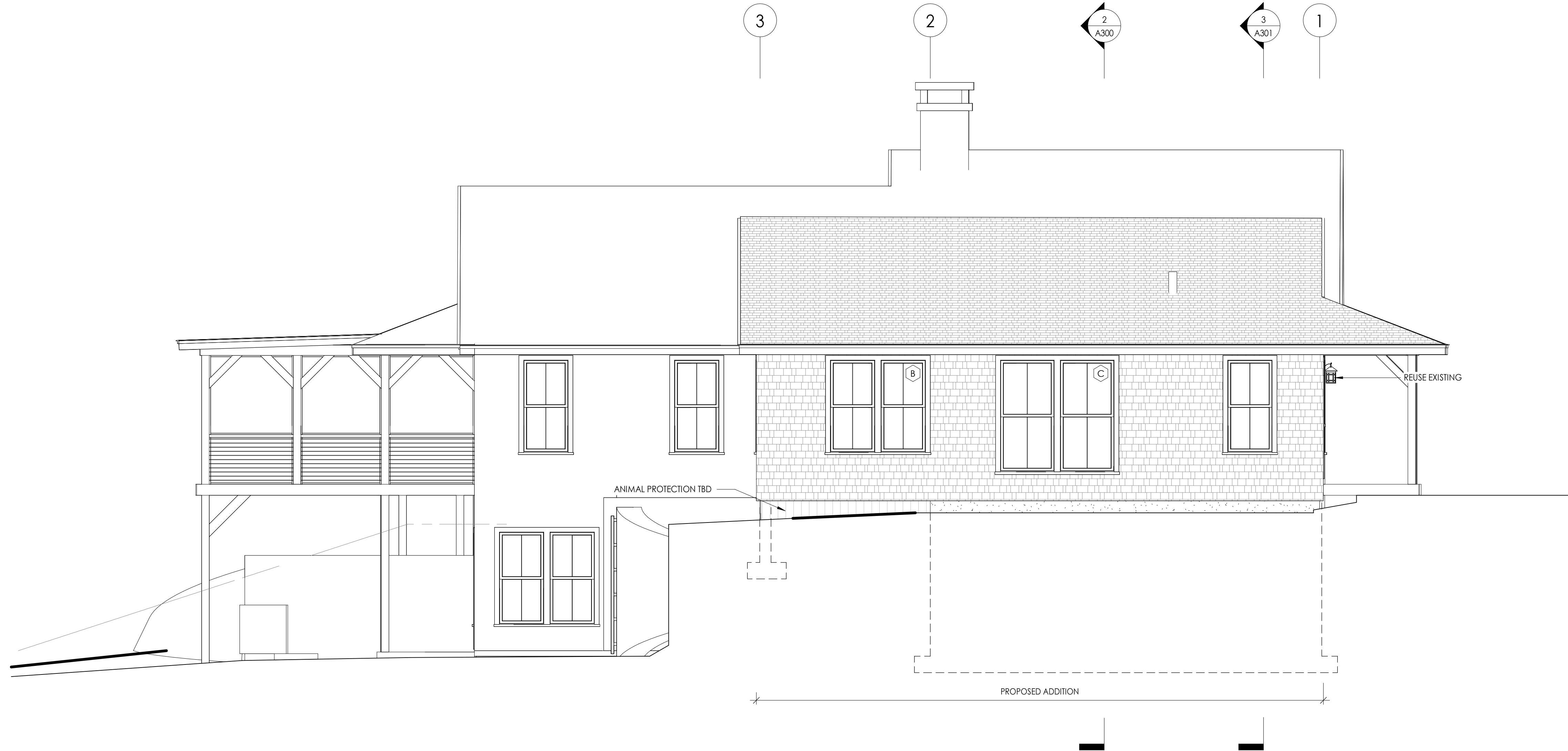
REVISIONS:

1	09.07.22	Issue for Permitting
2	10.13.22	Issue for Permitting
5	09.13.23	Revision

DRAWN BY: SA
CHECKED BY: JN

EXTERIOR
ELEVATIONS

A200



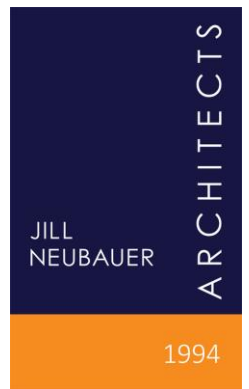
② SOUTHWEST ELEVATION
1/4" = 1'-0"








① SOUTHEAST ELEVATION
1/4" = 1'-0"

ALL FIGURES SEASHORE DISTRICT TOTAL GROSS FLOOR AREA

Project: Rowe Jacobson
Document Issued: 2023.09.14
From: JNA



ALL FIGURES SEASHORE DISTRICT TOTAL GROSS FLOOR AREA		
	SUBJECT	SIZE
	MAIN HOUSE SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	
	BASEMENT	1112 SQFT
	FIRST FLOOR	1512 SQFT
	MAIN HOUSE SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	
	BASEMENT	N/A SQFT
	FIRST FLOOR	288 SQFT
	GUEST HOUSE SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	
	FIRST FLOOR	667 SQFT
	GUEST HOUSE SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	
	FIRST FLOOR	
	SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	3291 SQFT
	SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	288 SQFT
	SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	3579 SQFT

15 DEPOT AVENUE

FALMOUTH MA 02540

508 548-0909

jna@jnarchitects.com
www.jnarchitects.com



Planning Board

Town of Truro

24 Town Hall Road
Truro, MA 02666
(508) 349-7004

AMENDED DECISION OF THE PLANNING BOARD

Residential Development Site Plan Review

Case Reference No.: 2023-003/SPR

Note: this Amended Decision incorporates corrected dimensions and updated plans approved by the Zoning Board of Appeals in its Decision dated October 23, 2023

Atlas Map 37, Parcel 6

Address: 12 Ocean Bluff Lane

Title Reference: Barnstable County Registry of Deeds Book 34281, Page 342

Owners and Applicants: Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee

Hearing Dates: April 26, 2023; May 10, 2023; June 7, 2023; July 5, 2023

Decision Date: July 5, 2023

Vote: 47-30

Amended Decision Date: December 6, 2023

Sitting: Anne Greenbaum, Chair; Richard Roberts, Vice Chair; Jack Riemer, Clerk; Ellery Althaus; Virginia Frazier; Paul Kiernan; Caitlin Townsend

Following duly posted and noticed Truro Planning Board hearings held on April 26, 2023, May 10, 2023, June 7, 2023, and July 5, 2023, the Board voted to grant Residential Site Plan Approval of construction unauthorized by building permit and for further expansion of dwelling in Seashore District.

Board Vote:

At the July 5, 2023 meeting, M. Townsend made a motion, seconded by M. Althaus, to approve the application for Residential Site Plan Approval. Vote was 4-3 in favor.

In favor of the Motion: Anne Greenbaum, Chair; Ellery Althaus; Virginia Frazier; Caitlin Townsend

Not In favor of the Motion: Richard Roberts, Vice Chair; Jack Riemer, Clerk; Paul Kiernan

Abstained: None

The application of Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee Residential Site Plan approval pursuant to Section 70.4 of the Truro Zoning Bylaw was granted by the Planning Board.

The following materials were submitted as part of the complete application for review:

- Cover Letter from Benjamin E. Zehnder LLC, Esq. dated March 27, 2023
- Application for Residential Site Plan Review dated March 27, 2023
- 70.4 – Residential Site Plan Review Checklist
- Addressing the Review Criteria §70.4D
- Site Plan Review Waiver Requests
- Zoning Table
- Permission to Enter Property for Purpose of Site Visit signed form
- Town of Truro – Fiscal Year 2023 Property Card (2 pages)
- CAI Technologies Map for 12 Ocean Bluff Lane dated February 1, 2023
- Certified Abutters List
- Addendum – Nearby Structures: 6 Ocean Bluff Lane, 7 Highland Light, 7 Coast Guard Road, 11 Highland Light, 15 Highland Light, Highland Light Complex (3 pages) (photos)
- Quitclaim Deed (2 pages)
- Decision of the Zoning Board of Appeals of Truro, MA attested December 4, 2017 and filed with Barnstable County Registry of Deeds Bk 35655, Pg 44 on February 27, 2023
- Decision of the Planning Board attested June 12, 2018 and filed with Barnstable County Registry of Deeds Bk 31345, Pgs 92-95 on June 18, 2018
- Lighting
- “Site Plan of Land in Truro as Prepared for Kenneth S. Kuchin Depicting Existing Conditions (No. 12 Ocean Bluff Lane)” by William N. Rogers, dated October 2017, Scale 1” = 30’, Sheet One of Two
- “Site Plan of Land in Truro as Prepared for Kenneth S. Kuchin Depicting Proposed Conditions (No. 12 Ocean Bluff Lane)” by William N. Rogers, dated October 2017, Scale 1” = 30’, Sheet Two of Two
- “First Floor, Kuchin/Morgan Residence, 12 Ocean Bluff Lane, Truro, MA” by Schulz/Peabody Design Group, dated September 5, 2017, Scale 1” = 40’, Sheet A-202
- “Basement Plan, Kuchin/Morgan Residence, 12 Ocean Bluff Lane, Truro, MA” by Schulz/Peabody Design Group, dated September 5, 2017, Scale 1” = 40’, Sheet A-201
- “First Floor, Kuchin/Morgan Residence, 12 Ocean Bluff Lane, Truro, MA” by Schulz/Peabody Design Group, dated May 20, 2018, Scale 1” = 40’, Sheet A-201
- “Basement Plan, Kuchin/Morgan Residence, 12 Ocean Bluff Lane, Truro, MA” by Schulz/Peabody Design Group, dated May 20, 2018, Scale 1” = 40’, Sheet A-200a
- “First Floor, Kuchin/Morgan Residence, 12 Ocean Bluff Lane, Truro, MA” by Schulz/Peabody Design Group, dated October 9, 2019
- “Grading Plan, Rowe Jacobson, 12 Ocean Bluff Lane, Truro, MA” by LeBlanc Jones Landscape Architects, Inc., dated March 27, 2023, Scale 1” = 10’
- “Planting Plan, Rowe Jacobson, 12 Ocean Bluff Lane, Truro, MA” by LeBlanc Jones Landscape Architects, Inc., dated March 27, 2023, Scale 1” = 10’

- “Architectural Site Plan, Rowe Jacobson, 12 Ocean Bluff, North Truro, MA” by Jill Neubauer Architects, dated December 21, 2022, Scale 1” = 30’-0”, Sheet A020
- “Main House Area Study: (1) Main House Area Study First Floor, Scale 3/16” = 1’-0”, and (2) Main House Area Study Basement Plan, Scale 3/16” = 1’-0”, Rowe Jacobson, 12 Ocean Bluff, North Truro, MA” by Jill Neubauer Architects, dated December 21, 2022, Sheet A030
- “Guest House Area Study: (1) Guest House Area Study Garage, Scale 3/16” = 1’-0”, and (2) Guest House Area Study First Floor, Scale 3/16” = 1’-0”, Rowe Jacobson, 12 Ocean Bluff, North Truro, MA” by Jill Neubauer Architects, dated October 13, 2022, Sheet A031
- “3D Views Exterior: (1) Axonometric View 1 W. Setback Line, (2) Exterior Perspective 1 W. Setback Line, and (3) Exterior Perspective 2 W. Setback Line, Rowe Jacobson, 12 Ocean Bluff, North Truro, MA” by Jill Neubauer Architects, dated December 21, 2022, Sheet A040

SUPPLEMENTAL:

- Supplemental Filing from Benjamin E. Zehnder LLC, Esq. dated April 18, 2023
- Marked-up Existing Conditions Plan dated January 23, 2020
- Piling Plan
- Hot Tub and Deck Plan
- Renderings of Proposed Hot Tub and Decking (2 pages)
- Zoning Table Revised April 13, 2023
- Stamped Copy of Architectural Plan A020
- Supplemental Filing from Benjamin E. Zehnder LLC, Esq. dated June 29, 2023
- Revised Residential Site Plan Review Checklist
- Zoning Table
- Proposed Site Plan dated June 28, 2023
- Quitclaim Deed, Book 35900, Pg 211-212, #28985 dated July 21, 2023

Supplemental Filing from Benjamin E. Zehnder LLC, Esq. dated September 15, 2023 with attachments:

- All Figures Seashore District Total Gross Floor Area dated September 14, 2023
- Main House Area Study, September 13, 2023, Sheet A030
- Guest House Area Study, September 13, 2023, Sheet A031

- Final Site Plan dated September 11, 2023
- Exterior Elevations dated September 13, 2023, Sheet A200
- Exterior Elevations dated September 13, 2023, Sheet A201

Supplemental Filing from Benjamin E. Zehnder LLC, Esq. dated August 15, 2023 with attachments

~~[copy list of documents from ZBA decision]~~

Commented [B1]: Confirm that BZ submitted same package for this amended decision.

Commented [ES2R1]: Yes

The Board also received:

- December 15, 2017 letter from Thomas W. French, Ph.D., Assistant Director, Massachusetts Division of Fisheries & Wildlife to Susan Hanway regarding NHESP File No. 17-37378
- Correspondence from National Park Service, Cape Cod National Seashore

This decision is pursuant to the following facts and conditions:

Findings:

Pursuant to Section 70.4(D) of the Bylaw, the Board finds:

1. The lot is nonconforming as to area (approximately 2.69 acres where 3 acres required) and as to frontage. Related Zoning Board of Appeals (November 2017) and Planning Board (May 2018) approvals issued allowing the removal of an existing cottage; construction of a new dwelling, and construction of a garage/habitable studio structure on the property. The cottage was nonconforming as to setback from the front lot line.
2. The new dwelling and habitable studio referenced above were constructed in 2018. The approved plans for these structures indicated a Gross Floor Area of 1,181 square feet for the new dwelling, and 600 square feet for the studio, for a total approved Gross Floor Area of 1,841 square feet for the property.
3. At the commencement of the hearing, the Park Service (Cape Cod National Seashore), which owns property abutting 12 Ocean Bluff Lane, raised an issue with respect to a driveway from Ocean Bluff Lane to the habitable studio/garage on the property. According to the Park Service, the driveway had been impermissibly constructed over Seashore property within Ocean Bluff Lane. The applicant asserted that the area in question was in fact owned by the applicant's predecessor in title, and that it would be conveyed to applicant. The Board considers this a matter between private parties. The property is served by a second driveway leading to the main residence with an internal driveway to the studio.
4. An amended zoning table submitted by the applicant reports an existing square footage of the principal dwelling as ~~2,141~~ 2,624 square feet; ~~4,483~~ 1,212 square feet constructed on the 1st floor (~~302~~ 31 square feet more than approved), and ~~1,112~~ 658 square feet of habitable space constructed in the basement (none originally approved). The zoning table further provides an existing Gross Floor Area of ~~670~~ 667 square feet for the studio (~~consistent with what was~~ 660 approved) for a total existing gross floor area on the property of ~~3,291~~ 2,811 square feet. ~~As explained by the applicant, these reported existing dimensions are not based on an as-built plan—none has been prepared or submitted—but rather, are calculations by the office of applicant's counsel based on examination of approved plans.~~
5. The current applicants purchased the property following the above approvals and construction. They seek to add ~~458 square feet of additional habitable area in the basement, and 299~~ 288 square feet of additional area on the 1st floor of the dwelling (~~757 total additional square feet~~); bringing the total gross floor area of the dwelling to 2,912 square feet (2,624 + 288), for a total proposed gross floor area on the property of ~~3,568~~ 3,579 square feet, including the studio (667 sq ft).

6. Although the current owners are not responsible the existing construction in excess of the 2018 ZBA and Planning Board approvals, the increased square footage, they propose would bring the total Gross Floor Area to ~~1,727~~1,807 square feet more than what was originally approved. As this combined construction exceeds 1,000 square feet, Site Plan Review is required under the Zoning Bylaw. In addition, the project requires a Special Permit from the Zoning Board of Appeals to expand existing nonconformities, and a separate Special Permit to exceed Seashore District Gross Floor Area.
7. With respect to the criteria of §70.4, the Board further finds:
 - a. Relation of Buildings and Structures to the Environment. The Board finds that the principal dwelling and the garage/habitable studio will continue to relate to the existing terrain and lot. While the principal dwelling has been, and will be further expanded beyond the dimensions originally approved, the relationship of the two structures to the terrain and lot remains essentially the same. The garage/habitable studio remains unchanged.
 - b. Building Design and Landscaping. The Board finds that the expanded principal dwelling will continue to be in a vernacular style consistent with other dwellings in the Seashore District and complementary to the landscape. The materials are likewise complementary and appropriate to the location. The garage/habitable studio will be unchanged.
 - c. Preservation of Landscape. The Board finds that the existing landscape will be substantially preserved. The square footage added to the principal dwelling (both the previously unapproved area and the area here approved) results in only a minor expansion of the dwelling's footprint.
 - d. Circulation. The Board finds that the existing driveway from Ocean Bluff Lane to the principal dwelling, which also serves the garage/habitable studio by an internal driveway, will continue to provide adequate access and circulation on the property.
 - e. Lighting. The Board finds that as conditioned below, the lighting proposed for the structure will be consistent with General Bylaw Chapter IV, Section 6, and that adjacent properties and the night sky will be protected from intrusive lighting.

Conditions:

1. The use of the Property shall be in strict conformance with the Town of Truro Zoning Bylaw.
2. All construction on the Property, including materials, shall conform to the plans referenced herein. No additional construction is permitted unless authorized by amendment to this Decision, or deemed by the Building Commissioner to be de minimis. The applicant or agent shall consult with the Building Commissioner regarding any field changes for a determination as to whether the applicant must return to this Board and/or to the Planning Board to seek amendment of this Decision and/or the Planning Board's Decision.

3. Construction and use shall conform to all conditions imposed in the decision of the Zoning Board of Appeals to be issued, granting: (1) Special Permit to approve construction on non-conforming lot, including (completed) construction unauthorized by earlier permit, and additional square footage; and (2) Special Permit to exceed Gross Floor Area in the Seashore District.
4. All lighting on the property shall conform to Truro General Bylaw Chapter IV Section 6, Outdoor Lighting, and no lighting on the property shall impact neighboring property or the night sky.
5. Prior to issuance of a Certificate of Occupancy for the new dwelling, applicant shall submit to the Building Commissioner complete, stamped As-Built Plans for that structure confirming that the dimensions of the dwelling conform to this Decision. No Certificate of Occupancy shall issue until the Building Commissioner finds that the residential structure as built conforms to the requirements of this Decision, including all dimensional limits imposed. The principal dwelling shall, as constructed, be limited to a Gross Floor Area of 2,898 square feet.

This Site Plan Approval for a Residential Site Plan shall expire two (2) years from the date of approval.

Pursuant to Zoning Bylaw Section 70.6, it is the responsibility of the applicant to obtain a true attested copy of this decision from the Town Clerk and to record this decision in the Barnstable Registry of Deeds or Land Court, as applicable. Prior to the issuance of building permit, the applicant shall present evidence of such recording to the Building Commissioner and the Planning Board Secretary.

Rich Roberts, Chair

Date

Received, Office of the Town Clerk:

Signature

Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

☐ No Appeal has been filed.

☐ An Appeal has been filed and received in this office on: _____

Signature

Date

NOTE: Any person aggrieved by a decision of the Planning Board may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17)

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.